

Human Resource Policy #115

**DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
PERSONNEL POLICIES AND PROCEDURES**

Background Checks for New Employees

Policy: The Department of Public Health and Human Services is committed to protecting clients from harm. As part of that commitment, the department will conduct background checks of applicants for particular positions. Background checks will assist the department in selecting applicants who do not have relevant criminal convictions or other issues, which may relate to their work with the department.

Definitions:

“Criminal Background Check”

A records check performed by the Montana Department of Justice or a companion agency in another state. The check, done by name, birth-date and social security number, provides the department with a listing of any criminal convictions. The availability of information from other states may vary according to the state’s laws. The prospective employee must be informed that records are being checked. (A sample form is attached.)

“Nurse Aide Abuse Registry”

A registry maintained by the Quality Assurance Division of the DPHHS. The registry contains a listing of people reported by a former employer for substantiated abuse or neglect.

“Child and Adult Protective Services System (CAPS)”

A registry containing the names of child protective services clients with a substantiated case of abuse. A check of this system provides information about any substantiated findings of child abuse or neglect. Potential applicants must complete and sign the form for this review. (A sample form is attached.)

“Position with Client Contact”

Any employee with personal and physical contact with clients or an employee who may have reason to care for a client on an individual basis. This includes, but is not limited to, social workers, case aides, drivers, direct care workers, nurses, doctors, counselors, and others with direct client contact.

A. Employer Process:

1. Each facility and the department's central recruitment office will maintain a list of positions covered by this policy. The list must include those positions described in the definitions but can be expanded depending on the positions relationship with clients or the needs of the work unit. Individual facilities may opt to perform checks on all prospective employees.
2. When posting an open position for external recruitment, the department will place a clear statement on each affected posting that the successful applicant is subject to a background check.
3. Applicants who are interviewed should be advised that the department will check the appropriate state's criminal records, the Nurse Aide Abuse Registry and the Child Protective Services system. Facilities may opt to use different forms so long as the prospective applicant knows the information will be gathered.
4. An applicant may be offered a job contingent upon the background check information coming back without any relevant convictions or information from either abuse registry. An applicant who is offered a position contingent upon the background check can be terminated immediately if the records check results in information relevant to the position.

B. Evaluating Information:

1. A confirmed conviction, registry listing or child protective services substantiation does not automatically disqualify a candidate. The department will evaluate the information to determine if it is relevant to the particular position. Examples of criminal convictions or CPS issues, which may be grounds for disqualification, include assault, domestic violence, theft, sexual assault or any other action placing clients at risk.
2. Criminal charges not supported by a conviction cannot be considered in assessing a person's fitness for a position.

C: Criminal Checks for Non Client Care Positions:

1. The department may conduct background checks on other positions in non-client Care. These positions may include positions with fiduciary responsibility. If a background check is required, it must be clearly stated on the job announcement.

This policy shall be followed unless it conflicts with negotiated labor contracts, which shall take precedence to the applicable extent.